

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LG. PHILIPS LCD CO., LTD.,
Plaintiff,
v.
TATUNG COMPANY;
TATUNG COMPANY OF AMERICA,
INC.;
CHUNGHWA PICTURE TUBES, LTD.;
AND VIEWSONIC CORPORATION,
Defendants.

**DEFENDANTS' REPLY BRIEF REGARDING THEIR MOTION
IN LIMINE (No. 5) TO PRECLUDE LPL'S REFERENCE TO THE WORD
"DIKANG" AS RESISTANCE**

The relevant issue regarding the Chinese word “DiKang” (抵抗) is whether the property and function of the structure called DiKang is covered by this Court’s construction of “resistance.” As this Court held in the claim construction order, “resistance” of the ‘002 patent does not have its ordinary meaning. Therefore, the fact that DiKang may be loosely translated into English as “resistance” by an ordinary translator has little probative value for any claims or defenses of the case. The potential prejudice and confusion to the jury, on the other hand, is extremely high if LPL is allowed to freely refer to DiKang as “resistance,” because the jury may assume that just because DiKang may be translated to English as resistance, “DiKang” must be covered by the claim language “resistance.” Thus, the danger of prejudice and confusion outweighs any inconsequential probative value of referring to DiKang as resistance, and LPL should be precluded from doing so. At the very minimum, LPL should be precluded from referring to DiKang as “resistance” when it examines CPT’s witnesses because it is a near

certainty that the translation process will distort the testimony of the witness.

A. Referring to “DiKang” as “Resistance” Is Highly Prejudicial to CPT and Confusing to the Jury, While Such Practice Offers Little If Any Probative Value to the Issue of Infringement.

The Chinese phrase “DiKang” is an ambiguous label that CPT used to refer to the switching element couplings between its guard rings and gate or source lines. It is indisputable that DiKang is subject to many possible interpretations, as CPT’s witness repeatedly stated in his deposition (DiKang is transcribed as “di kang”):

REDACTED

Even LPL’s interpreter agrees with the ambiguity of DiKang.

REDACTED

The fact is, the English word “resistance,” if used to indicate electrical resistance, is translated into Chinese as “ZhuKang”(阻抗) instead of “DiKang.” (抵抗) Ex. B (English-Chinese Dictionary). No Chinese engineers or Chinese engineering dictionaries would refer to the electrical term “resistance” as “DiKang.”

REDACTED

Thus, DiKang

is merely an ambiguous label that CPT uses to refer to all the couplings between guard rings and control lines, conveying a meaning of protection and isolation. *Id*

Significantly, CPT uses the same phrase to indicate the couplings between the gate (or source) lines and the inner guard ring. Because the issue of “resistance” is an issue of the outer guard ring only and has nothing to do with the inner guard ring, CPT’s use of the phrase to refer to its inner guard ring couplings further indicates the phrase has no relevance to the infringement analysis.

More importantly, the infringement issue involving “resistance” is not about what word CPT chooses to label its couplings. The issue here is whether the structure and function of the CPT couplings called DiKang fits the Court’s construction of the term “resistance,” i.e., whether it is “a circuit component that has a specified resistance to the flow of electric current and is used to minimize the current surge from electrostatic discharge.” Given the Court’s construction of “resistance,” the issue of whether “DiKang” means “resistance” has little, if any, relevance to the infringement analysis. In fact, referring to DiKang as “resistance” directly interferes with the jury’s task of deciding whether DiKang is covered by the claim construction of “resistance,” because the claim construction itself also contains the word “resistance” (i.e., in the phrase “a specified resistance”), although the word is used in its ordinary meaning instead of the claim

meaning of “resistance.” Thus, referring to “DiKang” as resistance has little, if any, probative value for any relevant issues in this case.

In contrast, the potential prejudice and confusion is very high if LPL is allowed to freely refer to “DiKang” as resistance. The jury could confuse the fact that “DiKang” in some instances can mean “resistance” with the ultimate issue of whether the structure and function of “DiKang” is covered under this Court’s claim construction of “resistance.” Thus, the requested preclusion of reference to “DiKang” as “resistance” comports to the letter and spirit of Rule 403 of the Federal Rules of Evidence.

B. LPL Should Not Be Allowed to Refer to “DiKang” as “Resistance” When It Examines CPT’s Witnesses.

Given the ambiguity of the word “DiKang,” there is a near certainty that a false “admission” may be obtained through the translation process if LPL refers to DiKang as “resistance” during its examination of CPT’s witness. For example, because of the translation process, an unfair record could be generated through the following way:

Q (in English): When I say “resistance” here, I refer to the Chinese word “DiKang” in this design document. Does this CPT product contain a guard resistance?

[Translator in Chinese: “... Does this CPT product contain a guard DiKang?”]

[WITNESS in Chinese: Yes, this CPT product does contain a guard DiKang.]

A. [Translator in English] Yes, this CPT product does contain a guard resistance.

Q. [in English] This guard resistance consists of a pair of diodes?

A: Yes.

This hypothetical examination would seemingly create a “record” that the witness agrees that guard resistance consists of a pair of diodes, while in reality there has never been such an agreement. The witness is discussing what “DiKang” includes, but the record shows what

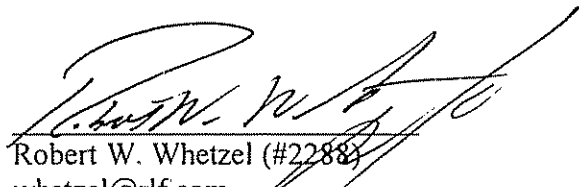
“resistance” includes. Thus, to allow LPL to conduct such examination will be unfairly prejudicial to CPT. In fact, during Mr. He’s deposition, LPL attempted this exact tactic.

Therefore, if the Court allows LPL to argue that “DiKang” means “resistance,” the Court should preclude LPL from examining CPT’s witnesses using the word “resistance” to refer to “DiKang.” A fair way of conducting such examination is to acknowledge the dispute on the meaning of the word “DiKang” in English and use “DiKang” in examinations so that there is no ambiguity as to what the witnesses have agreed.

Of Counsel:
Julie S. Gabler
Howrey LLP
550 South Hope Street, Suite 1100
Los Angeles, CA 90071
(213) 892-1800

Teresa M. Corbin
Glenn W. Rhodes
Howrey LLP
525 Market Street, Suite 3600
San Francisco, CA 94105
(415) 848-4900

Dated: July 5, 2006



Robert W. Whetzel (#22888)
whetzel@rlf.com
Matthew W. King (#4566)
king@rlf.com
Richards, Layton & Finger
One Rodney Square, P.O. Box 551
Wilmington, DE 19899
(302) 651-7700
Attorneys for Defendants/Counterclaimants
Tatung Company, Tatung Company of
America, Chunghwa Picture Tubes, Ltd. and
ViewSonic Corporation

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

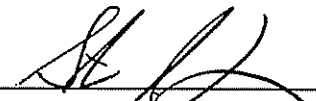
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 5, 2006, I electronically filed the foregoing document with the Clerk of Court using CM/ECF, which will send notification of such filing to, and also hand delivered same to:

Richard D. Kirk, Esquire
The Bayard Firm
222 Delaware Avenue, Suite 900
Wilmington, DE 19899

I HEREBY CERTIFY that on July 5, 2006, I sent the foregoing document by Electronic Mail to the following non-registered participants:

Gaspare J. Bono, Esquire
Matthew T. Bailey, Esquire
Andrew J. Park, Esquire
Adrian Mollo, Esquire
McKenna Long & Aldrige LLP
1900 K Street, NW
Washington, DC 20006



Steven J. Fineman (#4025)
fineman@rlf.com
Richards, Layton & Finger
One Rodney Square
PO Box 551
Wilmington, DE 19899

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

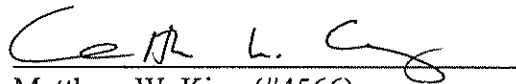
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 11, 2006, I electronically filed the foregoing document with the Clerk of Court using CM/ECF which will send notification of such filing, and hand delivered to the following:

Richard D. Kirk
The Bayard Firm
222 Delaware Avenue, Suite 900
P.O. Box 25130
Wilmington, DE 19899

I hereby certify that on July 11, 2006, I sent the foregoing document by Federal Express, to the following non-registered participants:

Gaspare J. Bono
Matthew T. Bailey
Andrew J. Park
Adrian Mollo
McKenna Long & Aldridge LLP
1900 K Street, NW
Washington, DC 20006



Matthew W. King (#4566)
king@rlf.com
Richards, Layton & Finger
One Rodney Square
P.O. Box 551
Wilmington, DE 19899